

ORDERs-IN-APPEAL :

The below mentioned appeals have been filed by the Appellants (hereinafter referred to as "Appellant No.1 to Appellant No.4", as detailed in Table below) against Order in-Original No. BHV-EXCJ5-000-JC-69-2017-18 dated 31.3.2018 (hereinafter referred to as 'impugned order') passed by the Joint Commissioner, Central GST and Central Excise, Bhavnagar (hereinafter referred to as 'lower adjudicating authority') :-

Sl. No.	Appeal No.	Appellants	Name & Address of the Appellant
1.	V2/122/BVR/2018-19	Appellant No.1	M/s Bansal Shipping Pvt Ltd, Plot No. 158, Sosiyo Shipbreaking Yard, Sosiyo, District Bhavnagar.
2.	V2/123/BVR/2018-19	Appellant No.2	M/s Bansal International Ltd Plot No. 1, Alang Shipbreaking Yard, Alang, Dist Bhavnagar.
3.	V2/124/BVR/2018-19	Appellant No.3	M/s Bansal Infracon Pvt Ltd Plot No. 154, Sosiyo Shipbreaking Yard, Sosiyo, District Bhavnagar.
4.	V2/125/BVR/2018-19	Appellant No.4	M/s Shri Saibaba Ispal (India) Pvt Ltd., Plot No. 135, Sosiyo Shipbreaking Yard, Sosiyo, District Bhavnagar.

2. The brief facts of the case are that Appellants No. 1 to 4 were engaged in manufacture of the excisable goods by breaking imported ships at their plot at the Ship Breaking Yard, Sosiyo and were registered with Central Excise. The Directorate General of Central Excise Intelligence (DGCEI) gathered intelligence that Shipbreaking units of Sosiyo were evading payment of Central Excise duty by resorting to clandestine removal, under-valuation of their finished goods (MS plates and scrap) and also issuing fake invoices without physical delivery of goods. The officers of DGCEI carried out search at the business premises of the appellants (belonging to Bansal Group of companies) on 10.6.2016 and inter-alia, found unaccounted cash amounting to Rs. 25,00,000/- from the personal cupboard of Shri Vijay Bansal of Bansal Group of companies from registered office premises. Since no satisfactory explanation was provided, the cash amount was placed under seizure on reasonable belief that it was unaccounted money and hence, liable to



(Signature)

not relevant for sustaining the allegation of clandestine removal of the excisable goods; that the findings of the adjudicating authority are not proper as evidence of clandestine removal has not been proved; that the impugned order has been passed *ex parte* without proper investigation under Central Excise Law; that the adjudicating authority has not imposed penalty under Rule 26 of Central Excise Rules, 2002 on Shri Vijay Bansal, Director of M/s. Bansal Infraxin Ltd. and Authorised person of Bansal Group of companies.

4. Personal Hearing were fixed in the case on 25.3.2019, 28.3.2019, 30.4.2019 and 23.5.2019, however, neither any response/reply came nor any one appeared on behalf of the Appellants on any of the given dates or any date thereafter. Hence, I take up these appeals for decision on the basis of available records, their Appeal Memoranda and the grounds of Appeals as they have been given sufficient opportunities to represent their case.

Discussion & Findings :-

5. I find that Appellants No. 1 to 4 have filed applications for condonation of delay of 17 days, 15 days, 12 days and 17 days respectively in filing appeals. They requested to condone delay in filing appeals on the grounds that authorized persons of the Appellants were out of Bhavnagar city and therefore, could not submit appeals within stipulated time. Considering that delay is within condonable period of 30 days as provided under proviso to Section 35(1) of the Act, I condone delay in filing of these appeals.

5.1 I have carefully gone through the facts of the case, the impugned order, the grounds of appeals detailed in appeal memoranda of the Appellants. The issue to be decided is whether the impugned order, in the facts and circumstances of this case, confirming unaccounted cash of Rs. 25,00,000/- and imposing penalty of Rs. 1 lakh each under Rule 25 of the Rules read with Rule 15A of the Central Excise Rules, 2004 (hereinafter referred to as the CCR) upon Appellants No. 1 to 4 is correct, legal and proper or not.

6. On going through the case records, I find that the lower adjudicating authority has imposed penalty of Rs. 1,00,000/- on each of Appellant No. 1 to Appellant No. 4, which are all Bansal Group of Companies on the ground that the cash sales proceeds recovered from personal cupboard of Shri Vijay K. Bansal during search on 10.6.2010 managing business affairs of Bansal Group of companies were pertaining of the excisable goods cleared clandestinely, as well as pertained to the transactions where only invoices were issued without physical delivery of the



[Signature]

excisable goods for passing of State Tax Credit. The Appellants contended that the lower authority has not adduced any concrete evidence to prove cash transactions carried out clandestinely / unauthorisedly cleared goods. I find that contentions of the appellants is not correct, inasmuch as the Impugned Show Cause Notices dated 20.12.2014 and the Impugned order dated 31.3.2018 are interspersed with various depositions which establish that unaccounted cash transactions were actually happened and had been executed by the Bansal Group of companies. The Annexures of the Show Cause Notice dated 6.12.2010 and the impugned order dated 31.3.2018 are reproduced to substantiate the facts and evidences as under:-

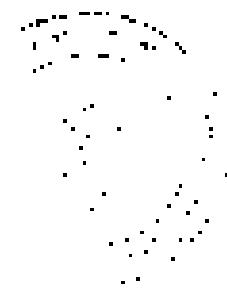
6.1 Para 3.3 & 3.4 of Page 3 of the Show Cause Notice reads as under :-

3.3 During the course of search, the search party found cash amounting to ₹3 Lakhs kept in the personal residence of Shri Vijay Bansal, which was opened by a professional key holder, Mr. Shri Nitin Patel (deputed) pursuant to a copy telephonic call being placed from the office of the said cash seizure, Shri Nitin Patel. Accountant of the company, the search could not give any satisfactory explanation. On being asked about the mode/means for maintaining cash accounts, Shri Nitin Patel stated that he used to collect cash in the accounts department within the premises of the office of the company and vouchers handed over to them by the employees of the manufacturing premises who daily visit the office for the purpose. On being asked to undertake the tallying of each balance with the accounts and whether he discussed the cash position with Shri Vijay Bansal, Shri Nitin Patel stated that he used to discuss at least once each tallying of cash amount. On being asked to exhibit the cash balance available with him to meet the day-to-day cash expenses, he stated he is having ₹1,00,000/- in cash balance for the said purpose. As required by the officer, Shri Nitin Patel worked out the cash balance as on the date of seizure, i.e. 20.05.2010, in respect of all the specified companies which he ascertained from the Ujjanwari vouchers as under:-

No.	Name of Group/Company	Cash Balance
1	Bansal Infrastr. Ltd.	₹ 1,62,908/-
2	Bansal Industries	₹ 1,39,444/-
3	Bansal Shipping Pvt. Ltd.	₹ 2,55,089/-
4	Shree Sakintha Specialties Pvt. Ltd.	₹ 12,95,312/-
5	Bansal Inroex	₹ 12,217/-
6	Bansal Inprodyne	₹ 21,745/-
	TOTAL	₹ 16,81,625/-

3.4 On being asked about the whereabouts of the said cash amount, Shri Nitin Patel could not provide any satisfactory explanation. On being specifically asked as to whether the aforesaid cash amount of ₹21 Lakhs would form part of the aforesaid cash balance of ₹17 Lakhs, and if so, whether he could be able to provide any satisfactory explanation about the balance cash amount, Shri Nitin Patel was unable to provide any explanation. On being further asked as to whether he could provide any commitment that the books of account and cash amount available in the factory are tallying with the cash amount, he was not able to do the same and merely stated that he was maintaining only books of account on the parts of the government's certified firm and he never undertake the cash account nor discussed the same with his employees. Therefore, it was reasonably believed that the aforesaid cash amount of ₹21 Lakhs secreted by Shri Vijay Bansal in his personal cupboard forms part of the unaccounted and unexplained value of excisable goods, i.e. ship breaking, iron manufacturing and electrical by the firm/its Ship Breaking Unit of Bansal Group and hence liable for confiscation under the provisions of Section 44A, 15(7) read with relevant provisions of Central Excise Act, 1944 and the rules made thereunder. Therefore, the said officers reported

36-135--



6.1.1 As detailed above, Rs. 25 lakhs were found secreted in the cupboard of Shri Vijay K. Bansal, which could not be explained by the appellant and his Accountant also.

6.2 Para 4.1.2 of the Show Cause Notice reads as under :-

4.1.2. Scrutiny of the documents revealed that the aforesaid cheque papers and passbook entries/notebooks were mostly drawn and maintained by Shri Vinod Patel in the name of Shri Kishor Patel. Some of these documents carried the handwriting of his brother Shri Kishor Patel who is also running a registered dealer firm in the name of M/s. Shree Bajrang Enterprises from the address 329, Tarambura, Pithaj, Maharashtra Road, Bhopal which is his sole proprietorship. Some of these documents were drawn in jointly understood/infused names and Shri Vinod Patel's signature/initials were found on Shri Kishor Patel and Shri Kishor Patel's signature of receiving such amounts under Section 14 of Central Excise Act, 1944.

6.3 Para 4.1.3 of the Show Cause Notice reads as under :-

4.1.3. Due to the belligerent and non-cooperative attitude of Shri Vinod Patel and Shri Kishor Patel, the entire details could not be deciphered from the seized documents till date. DGCEI could gather that various Ship Breaking Units, including the aforesaid units of Bansal Group are intimidating Shri Vinod Patel and Shri Kishor Patel against appearing before the investigating officers and giving true statements regarding their illicit activities. However, DGCEI could gather from its sources several information regarding the illicit business activities of the aforesaid brokers, and accordingly a large number of encoded entries and names appearing in the seized pocket diaries/notebooks could be deciphered. Accordingly, it appears that these documents contain several information pertaining to the Bansal Group of companies, which include details of their clandestine clearances, collection of payments from the Furnace Units by way of unaccounted cash against undervaluation, receipt of payments from Furnace Units in the form of bank instruments and payback of cash towards supply of fake Central invoices, etc. However, as already mentioned supra, investigation on the basis of these seized documents is still under progress, as DGCEI could not complete the said investigation till date due to the non-cooperative attitude of the aforesaid brokers. The computer storage devices seized from the said brokers have also been submitted to the Forensic Science Laboratory, Gandhinagar for scientific analysis and retrieval of data, the results of which are also still awaited. However, it is evidently clear that Shri Vijay Bansal and the Ship Breaking Units of Bansal Group have carried out substantial illicit transactions with Shri Vinod Patel and Shri Kishor Patel and huge amounts of unaccounted cash have been transacted between them. Investigations, which are also under progress, from some of the vendors whose names appearing in the in the seized pocket diaries/notebooks, have also indicated that substantial amount of cash have been transferred by Shri Vinod Patel from outside locations and paid the same to Bansal Group of companies."

6.4 Question No. 16 and answer thereof of the Show Cause Notice read as under :-

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Q11 - I have stated earlier that I have not seen the amount stated in Annexure 4 enclosed with your letter dated 23.08.15 to Shri. Anil Tripathi after consulting with the ship brokers. I have stated earlier that I have not seen the amount stated in Annexure 4 enclosed with your letter dated 23.08.15 to Shri. Anil Tripathi after consulting with the ship brokers. I have stated earlier that I have not seen the amount stated in Annexure 4 enclosed with your letter dated 23.08.15 to Shri. Anil Tripathi after consulting with the ship brokers. I have stated earlier that I have not seen the amount stated in Annexure 4 enclosed with your letter dated 23.08.15 to Shri. Anil Tripathi after consulting with the ship brokers.

6.5 Question No. 14 and answer thereof at Page 16 of the Show Cause Notice read as under :-

Q14 - I have stated earlier that I have not seen the amount stated in Annexure 4 enclosed with your letter dated 23.08.15 to Shri. Anil Tripathi after consulting with the ship brokers. I have stated earlier that I have not seen the amount stated in Annexure 4 enclosed with your letter dated 23.08.15 to Shri. Anil Tripathi after consulting with the ship brokers. I have stated earlier that I have not seen the amount stated in Annexure 4 enclosed with your letter dated 23.08.15 to Shri. Anil Tripathi after consulting with the ship brokers.

6.6 Question No. 15 and answer thereof at Page 17 of the Show Cause Notice read as under :-

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Q15 - Please state the total cost of the machinery you have supplied and the amount thereof which you have received. I have stated earlier that I have not seen the amount stated in Annexure 4 enclosed with your letter dated 23.08.15 to Shri. Anil Tripathi after consulting with the ship brokers.

6.7 Question No. 21 and answer thereof at Page 18 of the Show Cause Notice read as under :-

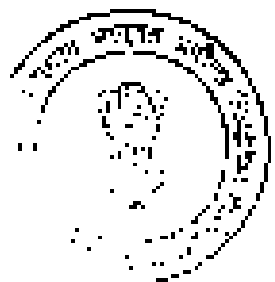
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S.No.	Name of the person	Name of the firm
1.	M/s. A. S. Sarda, Daman	M/s. A. S. Sarda
2.	M/s. Sarda Sarda, Daman	M/s. Sarda Sarda
3.	M/s. A. Sarda, Daman	M/s. A. Sarda
4.	M/s. Sarda Sarda, Daman	M/s. Sarda Sarda
5.	M/s. Sarda Sarda, Daman	M/s. Sarda Sarda
6.	M/s. Sarda Sarda, Daman	M/s. Sarda Sarda
7.	M/s. Sarda Sarda, Daman	M/s. Sarda Sarda
8.	M/s. Sarda Sarda, Daman	M/s. Sarda Sarda
9.	M/s. Sarda Sarda, Daman	M/s. Sarda Sarda
10.	M/s. Sarda Sarda, Daman	M/s. Sarda Sarda
11.	M/s. Sarda Sarda, Daman	M/s. Sarda Sarda
12.	M/s. Sarda Sarda, Daman	M/s. Sarda Sarda
13.	M/s. Sarda Sarda, Daman	M/s. Sarda Sarda
14.	M/s. Sarda Sarda, Daman	M/s. Sarda Sarda
15.	M/s. Sarda Sarda, Daman	M/s. Sarda Sarda
16.	M/s. Sarda Sarda, Daman	M/s. Sarda Sarda
17.	M/s. Sarda Sarda, Daman	M/s. Sarda Sarda
18.	M/s. Sarda Sarda, Daman	M/s. Sarda Sarda
19.	M/s. Sarda Sarda, Daman	M/s. Sarda Sarda
20.	M/s. Sarda Sarda, Daman	M/s. Sarda Sarda

6.2 Page 34 of the Show Cause Notice reads as under :-

"He further stated that left side of these pages contain the receipt of cash and right side contain the payment made in cash. On being asked, he stated that the name of firm person or broker has been mentioned from whom the cash have been received and similarly, the name of firm, person or broker has been mentioned to whom the cash was paid by the respective company firms. Further he stated that cash were received on account of sale of clandestine clearance of finished goods. I.e. M.S. Ingots etc also contains the amount of cash received on account of adjustment of Central Excise Invoices. He stated that in fact M.S. scrap shown in some Central Excise Invoices issued by traders of Bhavnagar were not received by our company and only Central Excise invoices were received for the purpose of Convoit credit and our company/firm made payments through cheques of amount shown in Central Excise invoices. He further stated that as the goods mentioned in Central Excise Invoices were not received by broker of Bhavnagar Shri Minash after deducting his brokerage and 20 % to 25% of Convoit Credit (depending upon trader to trader) passed on by trader of Bhavnagar. He further, stated that such entries of receipt of cash have been shown in the left side of these pages. On being asked, he stated that such cash were used for purchase of scrap from local traders of Surai, Billimora, Naysari, Umbergaon, Silvassa & Daman etc without any bill on cash term basis and recorded in right side of these pages. Details of the cash received have been detailed in Annexure-A attached to his aforesaid statement."



6.11 Question No. 20 and answer thereof at Page 48 of the Show Cause Notice read as under :-

The answers to the questions were as follows :-
Q.20: The goods which were the subject of sale of finished goods in M S Rights manufactured and sold by M.S. Engineering/M/s Sriharan Iyer Pvt. Limited, Vishal Customs; accordingly, accounting in their records and with preparing proper Excise Invoice has also been received on account of adjustment of Central excise duty which the goods had been received and only Central Excise Invoice removed for availing CREDIT credit.

6.12 Question No. 27 and answer thereof at Page 49 of the Show Cause Notice read as under :-

I declare that the same of goods were not received by the person whose name and goods mentioned in such invoices were not received by the person who do not remember the same and same will be provided in evidence.

6.13 Para 9.1 & 9.2 of the Show Cause Notice read as under :-

9. RESULTS AND INVESTIGATIONS

9.1 The case investigation conducted by officials from Sri Lanka Customs District Higher Level Unit, Mawla Regional Division, Hambantota District, Hambantota, where the case was registered, were shared with the Excise Department, Sri Lanka Customs, with a view to ascertain the supply of such goods and the amount of excise duty payable thereon. The supply of such goods and the amount of excise duty payable thereon were ascertained from the records of M/s. Sriharan Iyer Pvt. Limited, Vishal Customs, Hambantota, Mawla Regional Division, Hambantota District, Mawla Regional Division, Hambantota. The supply of such goods and the amount of excise duty payable thereon were ascertained from the records of M/s. Sriharan Iyer Pvt. Limited, Vishal Customs, Hambantota, Mawla Regional Division, Hambantota. The supply of such goods and the amount of excise duty payable thereon were ascertained from the records of M/s. Sriharan Iyer Pvt. Limited, Vishal Customs, Hambantota, Mawla Regional Division, Hambantota.

9.2 In view of the situation existing and un-cooperative attitude adopted by M/s. Sriharan Iyer Pvt. Limited, Mawla Regional Division, Hambantota, District, Hambantota, where the case was registered, the investigation was conducted by the officials of the Excise Department, Sri Lanka Customs, with a view to ascertain the supply of such goods and the amount of excise duty payable thereon. The supply of such goods and the amount of excise duty payable thereon were ascertained from the records of M/s. Sriharan Iyer Pvt. Limited, Vishal Customs, Hambantota, Mawla Regional Division, Hambantota. The supply of such goods and the amount of excise duty payable thereon were ascertained from the records of M/s. Sriharan Iyer Pvt. Limited, Vishal Customs, Hambantota, Mawla Regional Division, Hambantota.



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6.14 Para 9.3 to Para 9.5 of the Show Cause Notice read as under :-

9.3 The following details of cash transactions were recorded in the account books of the appellants and the person from whose cupboard illegal cash was recovered and seized during the course of investigation and confiscated by the impugned order. The details are as under:-

9.4 The details of the cash transactions recorded in the account books of the appellants and the person from whose cupboard illegal cash was recovered and seized during the course of investigation and confiscated by the impugned order are as under:-

Date	Particulars	Debit	Credit	Total	Balance
19.08.2010	Bank of India	10000		10000	10000
20.08.2010	Bank of India	10000		10000	10000
21.08.2010	Bank of India	10000		10000	10000
22.08.2010	Bank of India	10000		10000	10000
23.08.2010	Bank of India	10000		10000	10000
24.08.2010	Bank of India	10000		10000	10000
25.08.2010	Bank of India	10000		10000	10000
26.08.2010	Bank of India	10000		10000	10000
27.08.2010	Bank of India	10000		10000	10000
28.08.2010	Bank of India	10000		10000	10000
29.08.2010	Bank of India	10000		10000	10000
30.08.2010	Bank of India	10000		10000	10000
31.08.2010	Bank of India	10000		10000	10000

9.5 The following details of cash transactions were recorded in the account books of the appellants and the person from whose cupboard illegal cash was recovered and seized during the course of investigation and confiscated by the impugned order:-

Date	Particulars	Debit	Credit	Total	Balance
19.08.2010	Bank of India	10000		10000	10000
20.08.2010	Bank of India	10000		10000	10000
21.08.2010	Bank of India	10000		10000	10000
22.08.2010	Bank of India	10000		10000	10000
23.08.2010	Bank of India	10000		10000	10000
24.08.2010	Bank of India	10000		10000	10000
25.08.2010	Bank of India	10000		10000	10000
26.08.2010	Bank of India	10000		10000	10000
27.08.2010	Bank of India	10000		10000	10000
28.08.2010	Bank of India	10000		10000	10000
29.08.2010	Bank of India	10000		10000	10000
30.08.2010	Bank of India	10000		10000	10000
31.08.2010	Bank of India	10000		10000	10000

6.15 Para 9.7 at Page 69 of the Show Cause Notice reads as under :-

9.7 Thus, it is conclusively established that Bansal Group of Companies were engaged in the large scale unaccounted cash transactions on a day today basis with their brokers and recipients units. However, due to the non cooperative and belligerent attitude Shri Vijay Bansal and the concerned brokers, investigation on all such aspects could not be completed till date. Meanwhile, it is evidently clear that the unaccounted cash amount of Rs. 25 lakhs which was recovered from personal cupboard of Shri Vijay Bansal and placed under seizure under Paragraph 10.6.2010 was part of unaccounted sale proceeds of excisable goods and hence liable for confiscation under the provision of law. Therefore, pending investigation of other aspects of the case, including under valuation, clandestine clearances and fraudulently passing on Cenvat Credit, etc. and in compliance of limitation of time as provided under statute, it is proposed to issue this notice proposing confiscation of the seized cash amount.

6.16 The above extractions from the Show Cause Notice provide sufficient evidences establishing illegal cash transactions undertaken by Bansal Group of companies for which no satisfactory explanation could be given by the appellants and the person from whose cupboard illegal cash was recovered and seized during the course of investigation and confiscated by the impugned order.

[Handwritten signature]

7. The lower adjudicating authority is correct by upholding the charges levelled in the Show Cause Notice, inter alia, delivering findings as under in the impugned order :-

7.1 Para 25.3 of the impugned order reads as under :-

"25.3 I further find that on being asked about the whereabouts of the said cash amount, Shri Nitin Patel could not provide any satisfactory explanation. On being specifically asked as to whether the aforesaid cash amount of Rs. 25 lakhs would form part of the aforesaid cash balance of Rs. 85.73 lakhs and if so, whether he could be able to provide any satisfactory explanation about the balance cash amount Shri Nitin Patel was unable to give any explanation. On being further asked as to whether he could provide any commitment that the books of account and cash amounts available in the factory are being tallied from time to time etc. he was not able to do the same and merely stated that he was maintaining only books of accounts on the basis of the documents reached him and he never undertook the cash balance nor discussed the same with his employer. Therefore, it was reasonably believed that the aforesaid cash amount of Rs. 25 lakhs secreted by Shri Vijay Bansal in his personal cupboard form part of the unaccounted and undeclared value of excisable goods, viz. ship breaking scrap manufactured and cleared by the aforesaid Ship Breaking Units of Bansal Group and hence liable for confiscation under the provision of Customs Act, 1962 read with relevant provisions of Central Excise Act, 1944 and the rules made thereunder. Therefore, the said officers prepared proper inventory of the said unaccounted cash amount of Rs. 25 lakhs and placed the same under seizure. The list of currency notes so seized by DGCEI is attached at Annexure - B to the aforesaid Pwarchitna dated 10.06.2016."

(Signature)

7.4 Para 31.5 & Para 31.6 of the impugned order hold as under :-

"31.5 I find that seized documents also indicated large scale cash amounts having returned by Bansal Group of Units to Shri Vinod Patel through various agencies. It is evident that these cash amount were returned to Bansal Group against the bank payments received by them in respect of the fake Genvat invoices where no goods were physically supplied. Lots of the entries in the diaries indicate the corresponding invoice numbers as well as the amounts deducted towards commission, taxes and duty etc.

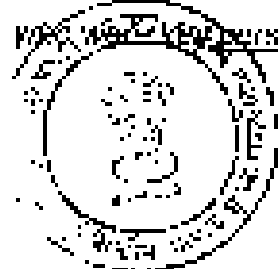
Diary No.	Name of UOI	Period Involved	Cash received
A-5	Shree Saksham Export India P. Ltd.	13.06 to 01.10	2124100
A-8	Bansa Shipping Pvt. Ltd.	11.09 to 03.10	84306250
A-6	Bansa International Ltd.	01.10	1455436
A-5	Shree Saksham Export India P. Ltd.	12.09 to 03.10	11584104

31.6 I find that it is conclusively established that Bansal Group of Companies were engaged in large scale unaccounted cash transaction on day to day basis with their brokers and recipients units. However, due to the non-cooperative and belligerent attitude of Shri Vijay Bansal and the concerned brokers, investigation on all such aspects could not be completed. Meanwhile, it is evidently clear that the unaccounted cash amount of Rs. 25 lakhs which was recovered from the personal cupboard of Shri Vijay Bansal and placed under seizure under searchwarrant dated 10.6.2010 was part of unaccounted sale proceeds of excisable goods and hence liable for confiscation under the provisions of the law."

[Emphasis supplied]

7.5 Para 38 at the Page 32 of the impugned order reads as under :-

'38. From the above, I find that the burden of proof in respect of the unaccounted cash amount of Rs. 25 lakhs and on the M/s Bansal Group of companies and not the department. The notices have argued that the burden of showing that cash seized was the sale proceeds of the goods cleared without payment of duty is on the department. I find that this argument of the notices is totally baseless. The investigating agency, i.e. DGCI has been continuously investigating the intelligence since 2010 and on the basis of searches conducted and Statements of Brokers and other key persons for clandestine removal, under-valuation and mis-



10-11-2018

use of Central Credit. It was also found that the payment of such illegal transactions was being made in cash through Anandya. The Accountant of the Group was not able to provide anything about the cash recovered. Even the Accountant of the Bansal Group who was working with the Group since long and whose presence at the time of search could not exclude about the cash. Moreover, it is not that the notices have not co-operated with the steps taken in carrying out the investigation. It is important to mention here the judgment of Hon'ble CESTAT, Ahmedabad in the case of C.O.E. & S. Co. (P) Ltd. v. M/s. Pense Steel Industries reported at 2014(4) 503(1) ITD(Ah), wherein it has been held that:

"When respondent did not have details of the buyers of the goods clandestinely removed, revenue cannot be levied with or without investigating the source of such goods materials purchased or extending investigation to the buyers of the goods clandestinely removed etc."


(Emphasis supplied)

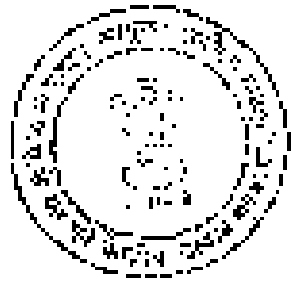
8. It is evident from the above para of the Show Cause Notice and the impugned order that unaccounted cash transactions have indeed taken place in the Bansal Group of Companies and no one from Bansal Group of companies has been able to prove that Rs. 25 lakhs recovered from the cupboard of Shri Vijay K. Bansal have legitimate source. Accordingly, I have no option but to hold that the lower adjudicating authority has correctly imposed (penalty of Rs. 1 lakh) on each appellant are ample evidences available in this case to hold that Rs. 25 lakhs recovered in cash from the cupboard of Shri Vijay K. Bansal are the proceeds of the unaccounted excisable goods and all appellants have actively participated in illegal activities undertaken by Bansal Group.

9. In view of above, I uphold the impugned order and reject all 4 appeals.

9.1 अपीलकर्तों द्वारा कड़े की वट्टे कच्चे लो का निपटारा उपरोक्त तरीके से किया जाता है।

9.1 The appeals filed by the Appellants are disposed off as above:


(कुमार संजय)
पथान उगयुक्ता (अपील्स)



By R.P.A.D.

To,

1. M/s Bansal Shipping Pvt Ltd Plot No. 158, Sosiyo Shipbreaking Yard, Sosiyo, District Bhavnagar.	मे. बंसल शिपिंग प्राइवेट लिमिटेड प्लॉट नं. 158. सोसियो शिपब्रेकिंग यार्ड, सोसियो, जिल्हा भावनगर।
2. M/s Bansal International Ltd Plot No. 1. Alang Shipbreaking Yard, Alang, District Bhavnagar.	मे. बंसल इंटरनेशनल लिमिटेड प्लॉट नं. 1, अलंग शिपब्रेकिंग यार्ड, अलंग, जिल्हा भावनगर।
3. M/s Bansal Infracore Pvt Ltd Plot No. 154, Sosiyo Shipbreaking Yard, Sosiyo, District Bhavnagar.	मे. बंसल इंटरनेशनल लिमिटेड प्लॉट नं. 154. सोसियो शिपब्रेकिंग यार्ड, सोसियो, जिल्हा भावनगर।
4. M/s Shri Saibaba Ispat (India) Pvt. Ltd., Plot No. 135, Sosiyo Shipbreaking Yard, Sosiyo, District Bhavnagar.	मे. श्री साईबाबा इस्पात (इंडिया) प्राइवेट लिमिटेड, प्लॉट नं. 135, सोसियो शिपब्रेकिंग यार्ड, सोसियो, जिल्हा भावनगर।

प्रति :-

- 1) प्रधान मुख्य अड्युक्त, वस्तु एवं सेवा कर एवं केंद्रीय उत्पाद शुल्क, गुजरात क्षेत्र, अहमदाबाद को जानकारी हेतु।
- 2) आयुक्त, वस्तु एवं सेवा कर एवं केंद्रीय उत्पाद शुल्क, भावनगर आयुक्तालय, भावनगर को आवश्यक कार्यवाही हेतु।
- 3) समुचित अड्युक्त, वस्तु एवं सेवा कर एवं केंद्रीय उत्पाद शुल्क, भावनगर आयुक्तालय, भावनगर को आवश्यक कार्यवाही हेतु।
- 4) आई फाइल।

